

Routed To:
☒ Council
☒ City Clerk
☒ City Manager

Attach C
☐ City Attorney
☐ Council Support Specialist
☒ Other *S. Swift*
D. Mellander

Testimony on Text Amendment No. TXT2009-00221
William Kominers for Tower-Dawson, LLC
(September 14, 2009)

EXHIBIT NO. 1
TXT2010-00221
Public Hearing: 9/14/09

Good Evening, Mayor Hoffmann and Members of the Council. My name is Bill Kominers, and I am here tonight representing Tower-Dawson, LLC, the original developer of Tower Oaks and, most currently, the owner and occupant of the recently completed 2000 Tower Oaks Boulevard office building. The building is an award-winning, LEED platinum building, which Tower-Dawson occupies as its headquarters.

I know you are aware that 2000 Tower Oaks Boulevard was given an Award for Environmental Excellence by the City of Rockville and, from Peerless Rockville, the Peerless Preservation Award for Green Design and Construction. In addition, the building has received several other awards: (1) Awards of Excellence from NAIOP of Maryland/DC for the Best Green Building and Best Suburban Office Building; (2) an Award of Distinction from the Montgomery County Department of Transportation through its Business Beautification Award Program; and (3) a Proclamation for Excellence in Green Building Design and Leadership from the Montgomery County Council.

I have a few brief comments in support of the portion of this Text Amendment that proposes the new Ancillary Restaurant use. This matter is discussed on page A-3 of the Planning Commission Memorandum and on page B-15 of Attachment B.

This portion of the Text Amendment follows the spirit and direction of the new Zoning Ordinance to encourage a mix of uses by creating more opportunities to mix restaurant uses in future office buildings, as well as by allowing them in buildings in existing planned developments, such as Tower Oaks. We support the Staff's revised language concerning the Ancillary Restaurant use, which is set forth on pages B-78 and B-79. We are pleased that the proposal was endorsed by the Planning Commission. This type of restaurant is an appropriate ancillary use that will be a beneficial amenity specifically for office buildings within the planned developments and mixed use developments, as well as being beneficial for the City and the populace generally.

In particular, we support this portion of the Text Amendment because it will allow restaurants to be located in existing office buildings in the PD zone, such as at 2000 Tower Oaks Boulevard. Tower-Dawson is very proud of 2000 Tower Oaks Boulevard. This portion of the Text Amendment will allow the addition of an upscale, table-cloth restaurant to further enhance the opportunities provided by this LEED Platinum building

and this important location. A restaurant of this type will be a positive addition to the Tower Oaks project and to the City as a whole.

We have reviewed the revised language as proposed by the Staff and support it as a revision to the original proposal. We urge you to adopt that portion of the Text Amendment to provide for the Ancillary Restaurant use.

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Exhibit # 2 Attach C

Subject: 1XT2010-00221

Public Hearing Date: 9/14/09



Zoning Text Amendment : Historic District designation process

Max van Balgooy to: mayorcouncil

Cc: Robin Ziek, Jeremy Tucker, Janet McCool, Craig Maloney, Anita
Neal Powell, Mary van Balgooy, "Joan M. Zenzen", dmellander

Dear Honorable Mayor and Council:

On behalf of the Historic District Commission, I am recommending a Zoning Text Amendment to **alter the Historic District designation process to both simplify the process and reduce confusion**. As you can see in the attached flowchart, the existing process is very complex and lengthy--it requires a property to undergo five decisions (in red and pink) and three public hearings (in yellow) prior to designation. We are recommending you **eliminate the Mayor and Council's application for a Sectional Map Amendment** (in red) because that becomes a typical point of confusion and frustration for property owners, the community, and the Mayor and Council. The Mayor and Council's ultimate decision at the end of the process to designate a property remains UNCHANGED. We are recommending the elimination of this early step in the process (in red) because often results in the Mayor and Council making a premature determination for designation, without public notice or public testimony. We urge that the Mayor and Council always make their decision after they have held a public hearing so that they can benefit from the perspectives of citizens. Unfortunately, the Mayor and Council often makes their decision when they are considering the Sectional Map Amendment, which is not only early in the process but also when no public notice has been given nor public testimony is allowed.

Indeed, the weakness of the process was made apparent on July 27, 2009 when the Mayor and Council was considering whether to file a Sectional Map Amendment for **224 Elizabeth Avenue in Lincoln Park**. Because there was no public hearing, several citizens had to voice their opinions at Citizen's Forum at the beginning of the meeting. Later when the Mayor and Council was considering the Sectional Map Amendment, most citizens in support of the designation had left because it was not a public hearing, however, one citizen was invited to speak, who happened to oppose the designation. As a result, some citizens believed that the Mayor and Council acted in an arbitrary and capricious manner by allowing testimony without any rebuttals.

The awkwardness of the process appeared again on September 14, 2009, when consideration of a Sectional Map Amendment for **23 Paca Place in Hungerford** was pulled from the Mayor and Council agenda at the last minute because the property owner was not notified it would be discussed that evening. Although the code does NOT require public notification, staff now tries to notify interested parties, especially the owner, to avoid misunderstandings. This notification, however, is not regulated nor consistent, unfortunately resulting in an arbitrary and capricious action by the City. If the property owner is notified, the neighborhood and other interested parties (such as Peerless Rockville or Montgomery Preservation) should also be notified, otherwise it will again appear that the City is favoring one party over others.

Therefore, we **urge you to consider alternatives to the current process** by either:

- allowing the Historic District Commission to file a Sectional Map Amendment with the

Planning Commission, or

- allowing the Planning Commission to file the Sectional Map Amendment as part of their review process of the historic district designation.

I would be pleased to discuss this further at your convenience.

Cordially,

Max A. van Balgooy, Chair
Historic District Commission

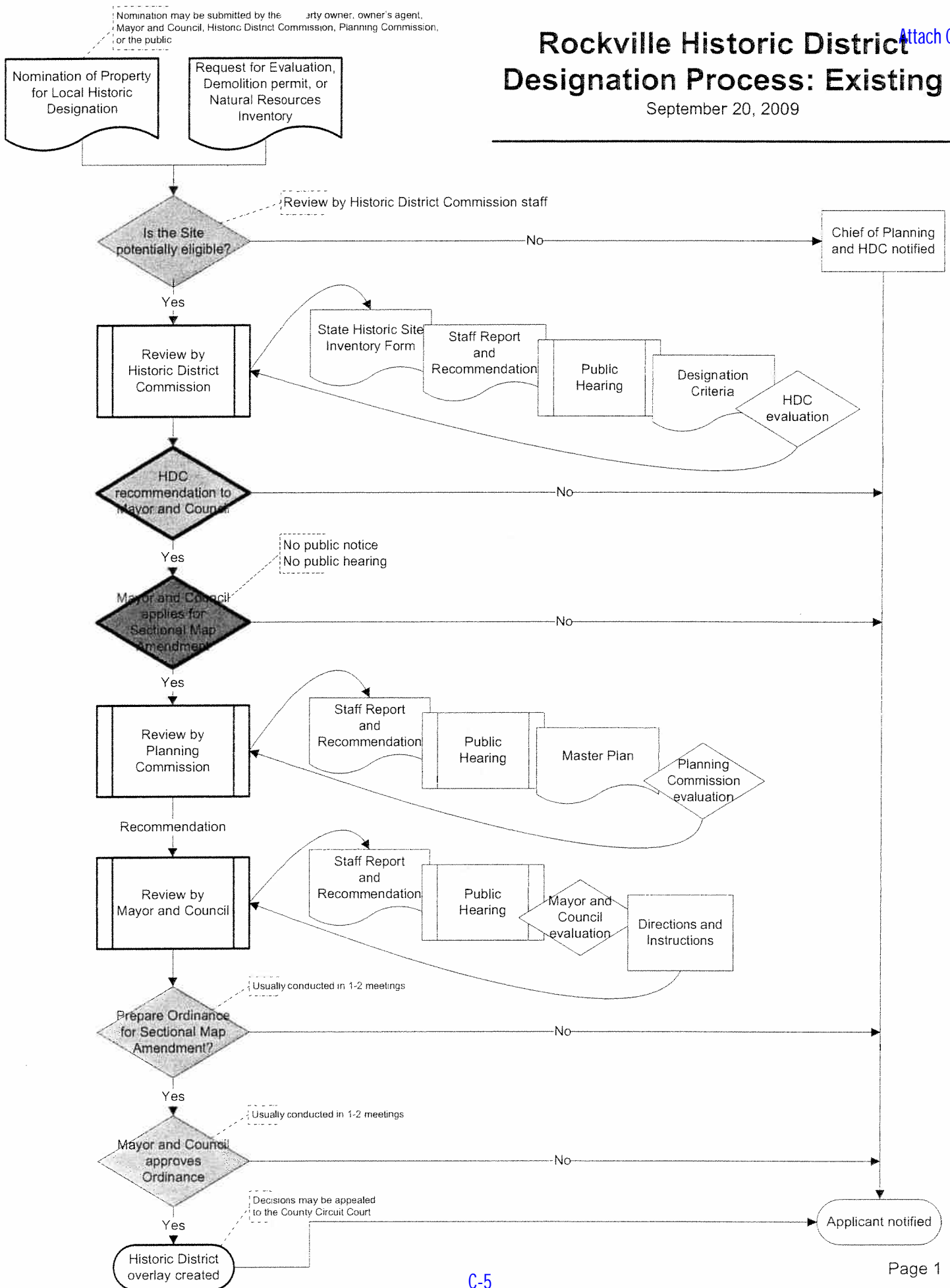


max.vanbalgooy@gmail.com HDC designation existing.pdf

Rockville Historic District Designation Process: Existing

September 20, 2009

Attach C



1)

LINOWES
AND BLOCHER LLP
ATTORNEYS AT LAW

Exhibit # 3 Attach C

Subject: TXT2010 - 00221

Public Hearing Date: 9/14/09

September 21, 2009

Scott C. Wallace
301.961.5124
swallace@linowes-law.com

Hon. Susan Hoffman, Mayor
and Members of the Rockville City Council
111 Maryland Avenue
Rockville, Maryland 20850

Re: Twinbrook Shopping Center – Zoning Text Amendment – TXT2009-00221 (the “ZTA”)

Dear Mayor Hoffman and Members of the City Council:

This office represents the Twinbrook Shopping Center Joint Venture (the “Twinbrook JV”), the owner of the Twinbrook Shopping Center located on the north side of Viers Mill Road, in the northeast quadrant of the intersection of Viers Mill Road and Meadow Hall Drive (the “Shopping Center”). The purpose of this letter is to provide the Twinbrook JV’s comments on the ZTA and to request a modification to the ZTA as detailed below.

By way of background, the Shopping Center was constructed in 1956 and contains approximately 157,000 square feet (SF) of retail space. The Shopping Center was developed under the C-2 Zone and was recently rezoned Mixed Use Neighborhood Center (“MXNC”) pursuant to the City’s Comprehensive Zoning Ordinance Revision approved in 2008. Currently, the Shopping Center includes a Safeway and a CVS as anchor tenants with long-term leases, as well as several smaller, neighborhood-serving retail and restaurant tenants.

Initially, Twinbrook JV wishes to express its support for the revisions to the MXNC Zone use table proposed in the ZTA, Section 25.13.03. These revisions will allow Twinbrook JV to continue to provide a diversity of neighborhood retail services at the Shopping Center, as well as potentially attract other desirable uses such as a theater or bowling alley. Overall, these proposed changes to the use table reflect the importance of flexibility in development standards to facilitate the continued economic viability of neighborhood retail centers, as well as provide incentive for redevelopment.

We also note that Staff has revised the provisions of Section 25.05.07, which sets forth the circumstances where site plan amendments are required for modifications to approved developments, to clarify that a change in a permitted use would not trigger site plan amendment review. In response to our testimony and the discussion before the Planning Commission that



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and Members of the Rockville City Council
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such a requirement would cause unreasonable delay in securing new tenants, Staff is proposing the following change to Section 25.05.07(d), shown in bold:

“Major Amendments to Approved Development

1. Where the Chief of Planning Determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed and approved by the original Approving Authority as an amendment to the original development approval. Major amendments may include:
 - (a) an increase in the height of any building,
 - (b) an increase in the floor area of any non-residential portion of a building,
 - (c) an increase in the number of dwelling units; or
 - (d) any other significant change to the site that results in an increase in the parking requirement.”**

We request the Mayor and Council consider a minor addition to subsection (d) as follows:

- “ (d) any other significant change to the site that results in an increase in the parking requirement and requires the construction of additional parking spaces. ”

This change would allow modifications to existing development to occur without site plan amendment approval when existing parking on-site is adequate to accommodate any additional parking requirements generated by the change. We believe this minor modification would narrow the requirement for site plan amendment approval to only circumstances that result in physical changes to an approved development.



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Upon review of this letter, if you have any questions, or require any additional information, please do not hesitate to contact the undersigned. Thank you.

Very truly yours,

LINOWES AND BLOCHER LLP

A handwritten signature in black ink, appearing to read "Scott C. Wallace".

Scott C. Wallace

cc: Mr. James Wasilak
Mr. Deane Mellander
Ms. Ann Wallas
Debra Daniel, Esq.
Mr. David Aaronson
Kevin Kane, Esq.
Barbara A. Sears, Esq.

L&B 1221569v1/07299.0002

Additional Item for Inclusion in the Public Record

Deane Mellander to Brenda Bean

09/21/2009 03:53 PM

Cc: Jim Wasilak, To: Susan Swift, Debra Yerg Daniel, Marcy Waxman

Brenda: Please add this as part of the public hearing record:

It has come to the attention of the staff that we need to revise the definition of "Lot, buildable" in the zoning definitions. In the transition from the previous code to the new code, the requirement that a buildable lot have frontage on a public street was not carried forward. The staff will provide additional information and suggested corrective language on this issue at the Discussion and Instruction session.

Deane Mellander
Zoning Administrator
240-314-8224
fax 240-314-8210
111 Maryland Avenue
Rockville, MD 20850

Exhibit # 4
Subject: IXT 2010-00221
Public Hearing Date: 9/14/09